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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,260	08/19/2003	Michael J. Galanis	091488-9005	4658
1131	7590	07/26/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH LLC 401 NORTH MICHIGAN AVENUE SUITE 1700 CHICAGO, IL 60611-4212			NGUYEN, KIM T	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,260

Applicant(s)

GALANIS ET AL.

Examiner

Kim Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/16/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The preliminary amendment filed January 16, 2004 has been received and considered. By this amendment, claims 1-18 are now pending in the application.

Specification

The abstract should be within the range of 50 to 150 words.

Claim Objections

1. Claims 1-18 are objected to because of the following informalities:
 - a) In claim 1, line 8; and claim 15, line 11, the claimed limitation “filtered signal” should be corrected to “the filtered signals”.
 - b) In claim 1, line 10; claim 9, lines 11-12, claim 12, lines 11-12; and claim 15, line 13, the claimed limitation “club face alignment” should be corrected to “said club face alignment”.
 - c) In claims 2-8, 10-11, 13-14, and 16-18, line 1, the claimed limitation “device” should be corrected to “golf club”.
 - d) In claim 2, line 1, the claimed limitation “microprocessor” should be corrected to “processing means”.
 - e) In claim 12, line 5, the claimed limitation “receiving” should be corrected to “receive”.
 - f) In claim 15, line 6, the claimed limitation “the bias current” should be corrected to “bias current”.

g) In claim 15, line 12, the claimed limitation “the club face alignment” should be corrected to “a club face alignment”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) In claim 1, line 10, the claimed limitation “and for activating” is inaccurate because it is not a component (a means) that construct to the golf club.

b) In claim 3, lines 1-2, the claimed limitation “a signal” is ambiguous. It is not clear if the “signal” refers to the “infrared signals” in claim 1, line 5, or the “direct current signals” in claim 1, line 6, or the “filtered signals” in claim 1, line 8.

c) In claim 9, line 10, the claimed limitation “signals” is ambiguous. It is not clear if the “signals” refers to the “infrared signals” in claim 9, line 5, or the “signals” in claim 9, line 6, or the “direct current signals” in claim 9, line 8.

d) In claim 12, line 10, the claimed limitation “signals” is ambiguous. Refer to the explanation in claim 9 above.

e) Other claims are rejected as being dependent on the rejected base claim.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-13 of U.S. Patent No. 6,736,735. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 3-14 disclose the same subject matter taught in claims 1 and 3-13 of patent '735 in broader scope by eliminating the infrared source pulsed at a rate of 2-6 KHZ. Further, as to claims 2 and 15-18, using a regulator for regulating sources or sensors and using phototransistor sensors would have been well known to a person of ordinary skill in the art at the time the invention was made.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 8, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogden (US patent No. 5,374,063) in view of Henwood (US patent No. 5,792,001) and Ognjanovic (US patent No. 6,248,021).

a. As per claim 1, 3, and 6, Ogden discloses a golf club comprising a club head, sensors, and a means for activating indicators to indicate the club face alignment (Fig. 4). Ogden does not disclose a filter means and a processing means. However, Henwood discloses including a filter means for blocking unwanted signals (col. 7, lines 39-66), and Ognjanovic discloses implementing a processing means in the club head (col. 2, lines 48-63). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement the filter means of Henwood and the processing means of Ognjanovic to the club head of Ogden in order to facilitate filtering out unwanted signals and to facilitate processing data of the golf club.

b. As per claim 2 and 8, activating indicators for a predetermined period of time, and using a capacitor as an additional power source to a sensor would have been well known to a person of ordinary skill in the art at the time the invention was made.

c. As per claim 4, Henwood discloses a sounder impact sensor (col. 8, lines 5-7).

d. As per claim 15, refer to discussion in claim 1 above. Further, Ognjanovic discloses using a regulator for regulating voltages (col. 6, lines 66-67; col. 7, lines 1-3; and col. 10, lines 19-23).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement regulators of Ognjanovic to the golf club of Ogden in order to regulate voltages and currents of the infrared sensors to maintain stability operation for the sensors of Ogden.

- e. As per claim 16, Ogden discloses phototransistor sensors (col. 4, lines 3-13).
- f. As per claim 17-18, refer to discussion in claim 15 above.

Allowable Subject Matter

7. Claims 5 and 7 would be allowable if rewritten to overcome the objections, the rejections under 35 U.S.C. 112, second paragraph, and if a terminal disclaimer is filed in compliance with 37 CFR 1.321(c) to overcome the double patenting rejection, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Claims 9-14 would be allowable if rewritten or amended to overcome the objections, the rejections under 35 U.S.C. 112, second paragraph, and if a terminal disclaimer is filed in compliance with 37 CFR 1.321(c)) to overcome the double patenting rejection, set forth in this Office action.

9. The following is a statement of reasons for the indication of allowable subject matter:

Prior arts of record does not disclose a club face including a plurality of infrared sources in which the infrared sources are pulsed at a rate of 2-6 kilohertz set forth in claim 5, or at a rate of 4 kilohertz set forth in claim 7; the feature of pulsing the infrared sources at the rate of 4

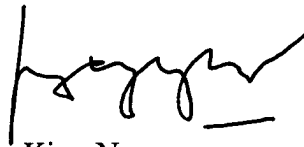
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kilohertz or at the rate of 2-6 kilohertz are used in the golf club set forth in the independent claims 9 and 12.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (703) 308-7915. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

A handwritten signature in black ink, appearing to read 'Kim Nguyen', with a horizontal line underneath.

Kim Nguyen
Primary Examiner
Art Unit 3713

kn

Date: July 23, 2004